

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff.

V.

DAVID NABIEL AKHDARY,
aka Nabiil David Akhdary.

Defendant.

CASE NO: 2:22-CR-0071-TOR

**ORDER ACCEPTING GUILTY PLEA
AND SETTING SENTENCING
SCHEDULE**

On September 29, 2022, David Nabil Akhdary appeared before the Court

and entered a plea of guilty to the Indictment filed on June 22, 2021, charging him with Possession with Intent to Distribute 40 Grams of Fentanyl, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(B)(vi). The Defendant was represented by Bryan Whitaker. Timothy J. Ohms appeared for Patrick Cashman on behalf of the government.

The Court finds that Defendant is fully competent and capable of entering an informed plea, that the Defendant is aware of the nature of the charges and

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1 consequences of the plea and the plea of guilty is knowing, and voluntary, is not
2 induced by fear, coercion, or ignorance and is supported by an independent basis in
3 fact establishing each of the essential elements of the crime. Therefore, the
4 Defendant's plea of guilty is accepted. However, the Court reserves on ruling on
5 the binding nature of the plea agreement until the time of sentencing.

6 **ACCORDINGLY, IT IS HEREBY ORDERED:**

7 1. A sentencing hearing is set for **January 4, 2023, at 10:00 a.m.** in
8 Spokane Courtroom 902. Absent truly exigent circumstances, the Court will not
9 consider a request for a continuance of sentencing unless: (1) the request is made
10 by written motion, (2) in accordance with LCivR 7, and (3) the motion and
11 supporting declaration are filed at least seven (7) days before the scheduled
12 sentencing hearing.

13 2. The Defendant shall remain in the custody of the U.S. Marshal's Service
14 pursuant to the detention order previously entered in this matter. ECF No. 21. **If a**
15 **sentence of incarceration is imposed, the Defendant shall remain in the**
16 **custody of the U.S. Marshal's Service.**

17 3. The United States Probation Office shall prepare a Presentence
18 Investigation Report (PSIR) pursuant to Fed. R. Crim. P. 32(c).

19 4. Not later than **November 23, 2022**, the probation officer shall disclose
20 the Presentence Investigation Report to the Defendant, counsel for Defendant, and
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1 the Government. Disclosure of the Presentence Investigation Report shall be
2 subject to the limitations imposed by Rule 32 of the Federal Rules of Criminal
3 Procedure.

4 5. Not later than **December 7, 2022**, counsel shall communicate in writing
5 to the probation office (and opposing counsel) any objections they may have as to
6 legal and factual errors or omissions; sentencing classifications; sentencing
7 guideline ranges; and policy statements contained in or omitted from the report. If
8 an objection is filed, the probation officer shall conduct such additional
9 investigation as is necessary to assess the merits of the objection.

10 6. The probation officer shall submit the final Presentence Investigation
11 Report to the Court by **December 21, 2022**. The report shall be accompanied by
12 an addendum setting forth any objections counsel may have made, including those
13 that have not been resolved, together with the officer's comments and
14 recommendations thereon.

15 7. Not later than **December 21, 2022**, counsel shall file and serve all
16 motions and memoranda pertaining to Defendant's sentence, including departures
17 and variances, and sentencing recommendations. **FAILURE TO FILE AND**
18 **SERVE SENTENCING MATERIAL, TO INCLUDE MOTIONS OR**
19 **MEMORANDA FOR UPWARD OR DOWNWARD DEPARTURE AND**
20
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1 **VARIANCES, BY THIS DATE WILL BE DEEMED A WAIVER OF THE**
2 **RIGHT TO DO SO.**

3 8. Not later than **December 28, 2022**, the opposing party shall file and serve
4 its response limited to no more than seven (7) pages.

5 9. If either party intends to call witnesses or proffer exhibits at sentencing,
6 witness and exhibit lists must be exchanged by the parties and provided to the
7 Court no later **December 28, 2022**.

8 10. All pending motions are **DENIED as moot** and all pending hearing and
9 trial dates are stricken from the Court's calendar.

10 11. The District Court Executive is authorized to accept Defendant's \$100
11 payment which shall be applied to the Special Penalty Assessment.

12 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter
13 this Order and provide copies to counsel, the United States Probation Office, and
14 the United States Marshal's Service.

15 DATED September 29, 2022.



16 A handwritten signature in blue ink that reads "Thomas O. Rice".
17 THOMAS O. RICE
18 United States District Judge

19
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